



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,840	12/06/2001	Mark John McGrath	450110-03715	8668

20999 7590 12/28/2006
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

VENT, JAMIE J

ART UNIT	PAPER NUMBER
----------	--------------

2621

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/28/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/008,840

Applicant(s)

MCGRATH ET AL.

Examiner

Jamie Vent

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 14-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. As seen in Claims 14-17 recites "a computer software having program code for carrying out a method" thereby lacking non-statutory matter. Furthermore, it is suggested by the examiner for the claim to recite a computer software/medium encoded with program code" for Claims 14-17. For additional assistance please see Annex I of 101 Interim Guideline. Also, regarding computer-related subject matter, please review Annex IV of the Guideline Page 53, Lines 7-8.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1-17 are
Claims rejected under 35 U.S.C. 102(b) as being unpatentable by Ratakonda

TG 9/14/06
(US 5,956,026).

[claim 1]

In regard to Claim 1, Ratakonda discloses a video information processing apparatus for selecting a representative video image from a group of video images in dependence

Art Unit: 2621

upon a frequency of occurrence of a plurality of possible values of at least one image property, said processing apparatus comprising:

- an image data accumulator for calculating the frequency of occurrence of said plurality of values of said image property for each frame of said group (Column 2 Lines 28-45 describes the calculation of the frequency);
- a representative frequency calculation module for calculating a representative frequency of occurrence for each of said plurality of possible values of the image property wherein said representative frequency is calculated with respect to said group of video images (Column 4 Lines 35+ describes the calculation of the representative frequency);
- a representative video image extractor for selecting said representative video image by selecting an image of said group which has a frequency of occurrence of said plurality of possible values close to said representative frequency of occurrence (Column 7 Lines 50+ as described for selecting an image).

[claim 2]

In regard to Claim 2, Ratakonda discloses an apparatus according to claim 1 wherein said representative frequency is an average frequency (Column 7 Lines 25+ describes the representative frequency).

[claim 3]

In regard to Claim 3, Ratakonda discloses an apparatus according to claim 1 wherein said image property is a colour property (Column 4 Lines 35+ describes the colour property of the image property).

[claim 4]

In regard to Claim 4, Ratakonda discloses an apparatus according to claim 1 wherein said colour property is a hue signal (Column 4 Lines 35+ describes the colour property of the image property).

[claim 5]

In regard to Claim 5, Ratakonda discloses an apparatus according to claim 1 wherein said possible values includes a full range of possible values of said image property (Column 10 Lines 20+ describes the full range of possible values).

[claim 6]

In regard to Claim 6, Ratakonda discloses an apparatus according to claim 1 wherein each one of said possible values comprises a predetermined range of values of said image property (Column 9 Lines 30+ describes the predetermined range of values of the image property).

[claim 7]

In regard to Claim 7, Ratakonda discloses an apparatus according to claim 6 wherein said predetermined ranges for said possible values are contiguous ranges each having identical span and said ranges cover said full range of possible values of said image property such that a histogram of said frequency of occurrence is formed for each of said images (Figure 7 and further described in Column 14 Lines 28+).

[claim 8]

In regard to Claim 8, Ratakonda discloses an apparatus according to claim 1 wherein said plurality of values comprises an image property value for each pixel of said

Art Unit: 2621

respective image (Column 6 Lines 10+ describes the image property value for each pixel).

[claims 9, 10, & 13]

In regard to Claims 9, 10, and 13, Ratakonda discloses an apparatus according to claim 1 wherein said representative video image extractor is operable:

- to calculate a difference between said representative frequency of occurrence and said frequency of occurrence for each of said plurality of possible values (Column 2 Lines 28-45 describes the calculation of the frequency);
- to combine said values of said difference for each of said plurality of possible values to produce one single-valued difference for each image (Column 4 Lines 35+ describes the calculation of the representative frequency); and
- to select said representative video image by selecting an image in said group of images which corresponds to said smallest of said single-valued differences (Column 7 Lines 50+ as described for selecting an image).

[claim 11]

In regard to Claim 11, Ratakonda discloses an apparatus according to claim 4 comprising a format conversion unit for converting from a video signal in an arbitrary colour space to a video signal in said hue-saturation-value colour space (Column 4 Lines 35+ describes the colour property of the image property).

[claim 12]

In regard to Claim 12, Ratakonda discloses an apparatus according to claim 11 comprising a user control for performing shot and sub-shot segmentation

operations during recording of said video images (Column 6 Lines 5+ describes the sub-shot segmentation wherein the detection of shot boundaries are determined).

[claim 14]

In regard to Claim 14, Ratakonda discloses computer software having program code for carrying out a method according to claim 13 (Column 1 Lines 22+).

[claim 15]

In regard to Claim 15, Ratakonda discloses a data providing medium by which computer software according to claim 14 is provided (Column 1 Lines 22+).

[claim 16]

In regard to Claim 16, Ratakonda discloses a medium according to claim 15, said medium being a transmission medium (Figure 2 shows transmission medium).

[claim 17]

In regard to Claim 17, Ratakonda discloses a medium according to claim 15, the medium being a storage medium (Figure 2 shows transmission medium of the storage medium).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Yeo et al (US 5,821,945).

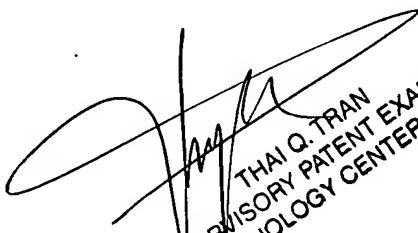
Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamie Vent whose telephone number is 571-272-7384. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JJV



THAI Q. TRAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600